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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/514,412	06/29/2005	Joerg Roth	DASI3001/FJD	4371
23364 7590 07/16/2007 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			EXAMINER SINGH, HIRDEPAL	
			ART UNIT 2611	PAPER NUMBER
			MAIL DATE 07/16/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/514,412

Applicant(s)

ROTH ET AL.

Examiner

Hirdepal Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Arguments***

1. Applicant's arguments, see "Remarks lines 2-5", filed May 21, 2007, with respect to Priority claimed based on the PCT application have been fully considered and are persuasive. The objection to specification for not including the priority based on the PCT application in the first paragraph has been withdrawn.

2. Applicant's arguments, with respect to the objection to the disclosure have been fully considered and are persuasive. The described objection is corrected, so the objection is withdrawn.

3. Applicant's arguments regarding objection to the drawings have been fully considered but they are not persuasive.

"The drawings are objected to under 37 CFR 1.84(h)(5) because Figures 1-4 show(s) modified forms of construction in the same view".

Figures 1-4 shows different blocks/boxes labeled with different names (acronyms), and some of names are crossed out, and the blocks are labeled by writing/giving new names. The drawings should be clearly labeled as figure 5, and the unwanted information should be cleared out.

4. Applicant's arguments, regarding the rejection under 35 USC 112 second paragraph as applied to claim 10 have been fully considered and are persuasive.

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The amendment fixed the rejection on antecedent basis, so it has been withdrawn.

5. Applicant's arguments regarding the rejection under 35 USC 102(e) as being anticipated by Gillen (US 2003/0208290) filed on May 21, 2007 have been fully considered but they are not persuasive. The Examiner has thoroughly reviewed Applicant's arguments but firmly believes that the cited reference reasonably and properly meets the claimed limitation as rejected.

Applicant's argument – "it (Gillen) does not disclose a reprogrammable logic device L.D."

Examiner's response – As the title itself describes a "programmable field measuring instrument" i.e. a device which can be programmed or reprogrammed. Also Gillen discloses ways to change the functionality of the field measuring device including reprogramming the field measuring device or by changing the control program (paragraphs 0008, 0010, 0029; as clearly claimed in claim 1). It is clear that when changing the functionality or reprogramming the device it gives the user the desired flexibility by configuring the field measuring device/instrument. Therefore, the field measuring device provides flexibility to the user to reconfigure by reprogramming or by changing the control program.

***Drawings***

6. The drawings are objected to under 37 CFR 1.84(h)(5) because Figures 1-4 show(s) modified forms of construction in the same view. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 10-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Gillen (US 2003/0208290).

Claim 10: Gillen discloses a programmable field measuring instrument/device comprising;

- a. entire control takes place from a control (superordinated unit) center, (para 0003, lines 13-20; figure 1);
- b. field measuring device has a sensor (module) which acquires the process data and ADC converts it to digital form (para0025, lines 1-4, fig 1);
- c. a control unit or processor for evaluating/processing the measured signal (para 0025, lines 4-8);
- d. communication module for communication with control unit through data bus line (para 0027, lines 1-6);

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e. a reprogrammable device/memory in field measuring device to install new control program (para 0008, lines 18-38), and the connector terminal serves as update interface to transfer new control programs (para 0031, lines 1-4);

f. the control unit, the microprocessor included in the device are interpreted as logic devices and are reprogrammable (figure 1; para 0008, lines 16-24; para 0025)

Claim 11: Gillen discloses a programmable field measuring device as in claim 10 above, and further discloses that programmable field device 10 has communication module for communication between control unit and control (superordinated) center (fig 1, para 0027, lines 1-5).

Claim 12: Gillen discloses a programmable field measuring device as in claim 10 above, and further discloses that the field measuring device 10 has sensor module (fig 1, para 0025, lines 1-4).

Claim 13: Gillen discloses a programmable field measuring device as in claim 10 above, and further discloses that the field measuring device 10 has digital components of (sensor, ADC) sensor module (fig 1, para 0025, lines 3-8).

Claim 14: Gillen discloses a programmable field measuring device as in claim 10 above, and further discloses the field measuring device has control unit, processor, a memory with different control programs (para 0016, lines 1-4; and para 0025, line 6).

Claim 15: Gillen discloses a programmable field measuring device as in claim 10 above, and further discloses that the field measuring device's functionality can be changed by a control program which is called from the memory during the initialization/configuration of control unit (designated as Sopc) (para 28, lines 1-5).

Claim 16: Gillen discloses a programmable field measuring device as in claim 10 above, and further discloses a data interface 22 with databus line for communication according to Profibus PA standard, Foundation Fieldbus Controller, CAN Controller (para 0027, lines 8-14).

Claim 17: Gillen discloses a programmable field measuring device as in claim 10 above, and further discloses the input/output unit connected to the control unit for indicating outputting values, manual (analog) inputting values (fig 1, para 0027, lines 1-6).

Claim 18: Gillen discloses a programmable field measuring device as in claim 10 above, and further discloses that the field measuring device 10 has functionality (functional block) in form of (software) control program (fig 1, para 007, lines 1-5).

Claim 19: Gillen discloses a programmable field measuring device as in claim 18 above, and further discloses that the flexible (reprogrammable) functionality can be achieved by configuring the device by Foundation Fieldbus, Profibus (para 0027, lines 8-14).

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hirdepal Singh whose telephone number is 571-270-1688. The examiner can normally be reached on Mon-Fri (Alternate Friday Off) 8:00AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shuwang Liu can be reached on 571-272-3036. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HS  
July 9, 2007

Shuwang Liu  
SPE-2611



**SHUWANG LIU**  
**SUPERVISORY PATENT EXAMINER**